Plaintiff MOHAMED ABOUELHASSAN, PRO SE

FILED

Address: 805 BORDEN RAE CT, SAN JOSE, CA 95117 2001 NOV 27 P 3: 51

Phone: 510-501-1800

RICHARD W. WIEKING CLERK U.S. DISTRICT COURT NO. DIST. OF CA. S. J.

Phone: 510-501-1800 FAX: 408-615-1818

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## UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA SAN JOSE DIVISION

MOHAMED ABOUELHASSAN In PRO SE

Plaintiff,

ν.

CHASE BANK USA, N.A., EXPERIAN INFORMATION SOLUTIONS, INC., EQUIFAX INFORMATION SERVICES, LLC, TRANS UNION.

Defendants.

Case No. 5:07-CV-03951 JF

FIRST AMENDED COMPLAINT FOR
LIBEL DEFAMATION OF CHARACTER
AND PROFESSIONAL NEGLIGENCE
UNDER CALIFORNIA CIVIL CODE
SECTIONS 1785.25, 43, 44, AND 45,
UNDER THE FAIR CREDIT REPORTING
ACT, UNDER THE FAIR DEBT
COLLECTION PARACTICE ACT AND
UNDER BANKRUPTCY CODE

# Plaintiff MOHAMED ABOUELHASSAN alleges as follow:

- 1. Plaintiff MOHAMED ABOUELHASSAN is a United States citizen, resident of San Jose, CA, in Santa Clara County, CA.
- 2. Plaintiff is informed and believes, and thereon alleges, that one or more of the Defendants are, and were at all times relevant herein, either residents of the State of California, doing business in the State of California, or otherwise engaging in activity creating sufficient contact with the State of California to give rise to personal jurisdiction.

FIRST AMENDED COMPLAINT FOR LIBEL DEFAMATION OF CHARACTER AND PROFESSIONAL NEGLIGENCE UNDER

CALIFORNIA CIVIL CODE SECTIONS 1785.25, 43, 44, AND 45, UNDER THE FAIR CREDIT REPORTING ACT

 3. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned herein, each of the Defendants was the agent of each of the remaining Defendants, and in doing the things hereinafter alleged, was acting within the course and scope of such agency and with the permission and consent of the other Defendants.

4. Plaintiff is informed and believes, and thereon alleges, that venue is proper in this County because at least one or more Defendants resides in and/or engaged in the conduct alleged within the State of California, and the Plaintiff's primary residence is located within the County of Santa Clara, CA.

### **GENERAL ALLEGATIONS**

- 5. Plaintiff Mohamed Hossni Abouelhassan is a citizen of The United States of America, with Egyptian origin, he speaks fluently Arabic, his mother tongue, and English, which he studied since 1987 in both Egypt and the United States. He is knowledgeable and competent in both cultures and languages, he possess skills that are required in post September 11<sup>th</sup> 2001 America. His educational and professional background well qualify him for high positions in serving the Government and People of the United States in its war against terrorism, such positions require granting security clearance, and determination of person's financial responsibility. Impairment of such reputation and financial responsibility directly diminishes and impairs Plaintiff's ability to conduct his business and his professional character as a candidate for such sensitive positions as a translator and interpreter.
- 6. Plaintiff is informed and believes, and thereon alleges, that Defendants made statements about the Plaintiff and his financial responsibility and worthiness by posting or causing to be posted false statements available on the World Wide Web and/or in consumer credit report. The statements posted by Defendants about Plaintiff contain false, misleading and damaging information about Plaintiff. Plaintiff is further informed and believes that Defendants posted the statements for the purpose of assuring that the information would reach large audience, including interested parties, financial institutions, insurance institutions, employers and potential employers interested in Plaintiff.

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Plaintiff is informed and believes, and thereon alleges, that Defendants' false and misleading statements about Plaintiff in fact did reach a large audience, including interested parties, financial institutions, insurance institutions, employers and potential employers, and others, and affected the decisions such entities made concerning Plaintiff.

### FIRST CAUSE OF ACTION

(Libel Defamation and Professional Negligence- Against all Defendants)

- Plaintiff realleges and incorporates Paragraphs 1 through 8 as though fully set forth 8. herein.
- On or about July 2004 Plaintiff filed for Chapter 7 Bankruptcy in the United States 9. Bankruptcy Court, Northern Alabama District, Eastern Division. Plaintiff included the Chase credit card account and received a discharge dating 11/05/2004.
- 10. On or about December 2004 Defendants published, and/or made available on the World Wide Web, in consumer credit reports, to the public and to large audience, including interested parties, financial institutions, insurance institutions, employers and potential employers interested in Plaintiff, statements stating and implying that Plaintiff has late payments for the discharged credit card account for 24 months. Defendants willfully and without justification nor privilege, communicated to others false and misleading statements to the effect that Plaintiff has late payments for 24 months, an action which impacted Plaintiff's ability to obtain fair credit, fair interest rates, and fair employment opportunities.
- 11. This publication was made of and concerning Plaintiff and was so understood by those who read the publication and the consumer credit reports about Plaintiff.
- Defendants made this publication without determining its validity, an act of professional 12. negligence that severely lowered Plaintiff's credit score and worthiness, and affected decision making concerning Plaintiff's credit worthiness, which in result limited and/or eliminated his access to fair

FIRST AMENDED COMPLAINT FOR LIBEL DEFAMATION OF CHARACTER AND PROFESSIONAL NEGLIGENCE UNDER

credit, access to higher employment including but not limited to, an Arabic Language Interpreter position with the salary of \$176,000.00 a year, serving the United States Armed Forces in Iraq.

- 13. This false publication is libelous on its face. On its face, it harms Plaintiff's reputation, and impugns Plaintiff's integrity. Plaintiff also contends that the publication affects present and may affect potential credit providers and potential employers, other official or non official interest in Plaintiff's qualifications and general integrity.
- 14. Plaintiff is informed and believes and therefore alleges that Defendants owe Plaintiff the highest fiduciary duty, including the duties of honesty, good faith and professionalism.
- 15. As set forth in detail above, Plaintiff is informed and believes and therefore alleges that Defendants breached their fiduciary duty owed to him by publishing false and misleading statements disparaging Plaintiff's credit score and worthiness, and affected decision making concerning Plaintiff's credit worthiness and general integrity.
- 16. On or about December 2004, Defendant CHASE BANK USA, N.A. reported 24 late payments; from December 2004 to November 2006, for credit card account that was discharged in Bankruptcy, such an action represents a libel action against Plaintiff.
- 17. Defendant Chase Bank USA, N.A. has known or has reasonable cause to believe that the information regarding the 24 late payments reported to EXPERIAN INFORMATION SOLUTIONS, INC., EQUIFAX INFORMATION SERVICES, LLC, TRANS UNION, LLC (the 3 major consumer reporting agencies) is indeed inaccurate. On or about March 2007 Plaintiff was denied a mortgage loan due to credit worthiness, Plaintiff obtained a copy of his credit report from the mortgage lender to review it and discovered the 24 late payments. Plaintiff immediately contacted by phone Defendants EXPERIAN INFORMATION SOLUTIONS, INC., EQUIFAX INFORMATION SERVICES, LLC, TRANS UNION, LLC to dispute the 24 late payments, the 3 Defendants in violation of the FCRA, referred the Plaintiff to contact the creditor and ask it to send them a letter that the 24 reported late payments are inaccurate. On or about March 2007, Defendant Chase Bank USA, N.A. was notified by

Plaintiff that the 24 late payments are inaccurate. In response to Plaintiff's notification of the inaccuracy of the 24 late payments, Defendant Chase Bank USA, N.A. send a letter dated 03/23/2007, (Exhibit 2) stating that the Plaintiff's account has been sold to B-Line, LLC, and that Defendant Chase Bank USA, N.A. will update the consumer credit report accordingly. On or about July 2006 Defendant Chase Bank USA, N.A. received an auto loan application from or on behalf of the Plaintiff, which was approved after obtaining the Plaintiff's credit report and reviewing and verifying it by Defendant Chase Bank USA, N.A. who charged an interest rate of 25.74%. Defendant Chase Bank USA, N.A. after reviewing the Plaintiff's credit report in regard to the July 2006 auto loan application had a reasonable cause to believe that the information regarding the 24 late payments reported to EXPERIAN INFORMATION SOLUTIONS, INC., EQUIFAX INFORMATION SERVICES, LLC, TRANS UNION, LLC (the 3 major consumer reporting agencies) is indeed inaccurate.

- Plaintiff discovered the 24 late payments on or about March 2007, and upon discovery 18. he contacted the Defendants to solve the issue, (Exhibit 3) and the response was an irrelevant letter stating that the Plaintiff's credit card account was sold to Defendant B-Line. This same letter of 03/23/2007 from Defendant Chase Bank USA, N.A. also states that Defendant Chase Bank USA, N.A. has received information about the credit card account that may be inaccurate; the letter states "We periodically send an update to a credit bureau when we receive information about your credit card that may have been inaccurate or that meets certain other criteria."
- 19. When Plaintiff contacted CHASE BANK USA, N.A. about the incident, he was informed that his account was sold to "B-Line, LLC", representatives of CHASE BANK USA, N.A. in bad faith and in reckless disregard for the truth and against Plaintiff's rights refused to provide any information nor contact information of "B-Line, LLC".
- 20. On or about November 06, 2007 Mr. Weickhardt, attorney of records of Chase Bank, confirmed by email that Plaintiff's account was not sold to B-Line, LLC, which shows that Defendant Chase Bank was acting in reckless disregard for the truth when it send a letter to plaintiff stating that

FIRST AMENDED COMPLAINT FOR LIBEL DEFAMATION OF CHARACTER AND PROFESSIONAL NEGLIGENCE UNDER

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his account was sold to B-Line, LLC, even though what the plaintiff asked for is just to delete these inaccurate information from his credit report.

- 21. Defendants EXPERIAN INFORMATION SOLUTIONS, INC., EQUIFAX INFORMATION SERVICES LLC, and TRANS UNION, LLC published the statements reported by CHASE BANK USA, N.A. without validating it and despite its mismatching the Bankruptcy discharge note showing in Plaintiff's credit report, and the status of debt "Bankruptcy" during the publication and the reporting of the negative statements.
- 22. On or about July 2006, Plaintiff Mohamed Abouelhassan purchased a used 2003 Ford car that it is financed to him by CHASE BANK USA, N.A.; account number 00528390194413, with interest rate of 25.74%, Plaintiff then accepted this high interest rate under the impression that it is due to his Bankruptcy, while in fact it was due to CHASE BANK USA, N.A. false and misleading reports of late payments of the above mentioned credit card account to the 3 credit agencies, such degrading and defamatory information that reduced Plaintiff's credit score, and put him in mental and psychological anguish which forced him to accept such a high interest rate due to his need for a car. At that time Plaintiff was renting a car for almost \$1000.00 a month for 6 months. Plaintiff never missed a payment on this loan nor on the credit card account before it was discharged in Bankruptcy. Plaintiff does respect his financial obligations, and make his payments on time.
  - 23. Defendants' above statements were in fact false and misleading.
  - 24. This false publication was seen and read by persons nationwide.
- 25. As a proximate result of the above described publication, Plaintiff has suffered damages in an amount in excess of the jurisdictional minimum of this Court, and to be proved at trial.

#### SECIND CAUSE OF ACTION

(Fair Debt Collection Practices Act)

26. Plaintiff realleges and incorporates Paragraphs 1 through 25 as though fully set forth herein.

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- 27. Plaintiff is informed and believes and therefore alleges that on or about 12/12/2005 Defendant Chase Bank, USA, N.A. offered Plaintiff's credit card account to B-Line, LLC for purchase. Therefore, Defendant Chase Bank, USA, N.A. by offering Plaintiff's credit card account to B-Line, LLC for purchase is in violation of [15 USC 1692d(4)].
- 28. By reporting the above mentioned discharged credit card account as 24 late payments Defendant Chase Bank, USA, N.A. is attempting to collect a discharged debt. Defendant Chase Bank, USA, N.A. is reporting the same credit card account in Plaintiff's credit report twice under 2 different creditor names; Chase Bank account number 5435051501604307, and Chemical Bank account number 5260365070104170, [Exhibit 4, a credit report issued by Defendant Transunion on 03/01/2007] Therefore, Defendant Chase Bank, USA, N.A. is in violation of [15 USC 1692e; 2(a), 6(b), 7, 8, 10, 11, 12, 14].

#### THIRD CAUSE OF ACTION

### (TITLE 11 BANKRUPTCY CODE)

- 29. Plaintiff realleges and incorporates Paragraphs 1 through 28 as though fully set forth herein.
- 30. By reporting the discharged credit card account to the credit agencies as 24 late payments Defendant Chase Bank, USA, N.A. is attempting to collect a title 11 discharged debt, therefore, defendant Chase Bank, USA, N.A. is in violation of the stay and injunction of the title 11; bankruptcy code.
- 31. The discharge prohibits any attempt to collect from the debtor a debt that has been discharged. A creditor is not permitted to take any action to collect a discharged debt from the debtor. A creditor who violates this order can be required to pay damages and attorney's fees to the debtor. Defendant Chase Bank, USA, N.A. is trying to collect a debt that Plaintiff has no liability for.

#### REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully prays for judgment as follows:

FIRST AMENDED COMPLAINT FOR LIBEL DEFAMATION OF CHARACTER AND PROFESSIONAL NEGLIGENCE UNDER

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- 1. An award of consequential, general, special and compensatory damages, according to proof at trial;
  - 2. An award of punitive damages, according to proof at trial;
- 3. Costs and expenses including attorneys fees reasonably incurred in connection with commencement and prosecution of this action pursuant to Code of Civil Procedure section 1021.5;
- 4. For Defendant CHASE BANK USA, N.A. to rescind the 2003 Ford car and its auto loan. And Defendant CHASE BANK USA, N.A. to refund Plaintiff his down payment and his monthly payments since August 18<sup>th</sup>, 2006 till the present.
- 5. For Defendants to remove false statements (24 late payments) from Plaintiff's credit report, report it to all credit bureaus and associated agencies, and to reassess Plaintiff's credit score.
  - 6. Costs of suit; and
  - 7. Grant any and all further relief this Court deems just and proper.

Dated: NOVEMBER 26, 2007

Respectfully submitted,

MOHAMED HOSSNI ABOUELHASSAN

In PRO SE

805 BORDEN RAE CT, SAN JOSE, CA 95117 Telephone (510) 501-1800

Fax: 408-615-1818

Email: egyptus a 76@msn.com

FIRST AMENDED COMPLAINT FOR LIBEL DEFAMATION OF CHARACTER AND PROFESSIONAL NEGLIGENCE UNDER

Cardmember Services Fulfillment Department, DE1-0811 PO Box 517 Frederick, MD 21705-0517



March 30, 2007

MOHAMED H ABOUELHASSAN 805 BORDEN RAE CT SAN JOSE CA 95117

### Dear Mohamed H Abouelhassan:

We are writing you to notify you that we have submitted an update to your file maintained at the credit reporting agencies. We periodically send an update to a credit bureau when we receive information about your credit card account that may have been inaccurate or that meets certain other criteria. Below are the names of the agencies that will receive the update information along with the reason for the change:

CBI/Equifax 652 E. N. Belt, Suite 107 Houston TX 77060

TRW/Experian Attn: Profile Maintenance 701 Experian Parkway Allen, TX 75013 Trans Union 200 Spring Lake Cove, #201 Jackson, MS 39208

The referenced account number is: 5435 0515 0160 4307

The update reason is: ACCOUNT SOLD (B LINE) AND INCLUDED IN BANKRUPTCY

If we can help in any other way, please call us at 1-800-238-3267. Serving you is important to us. Thank you.

Sincerely,

Carol Moran
Fulfillment Department



10 Crow Canyon Court, Suite 200 San Ramon, CA 94583 Tel: 925.831.3520 Toll Free; 800.954.2266 Fax: 800.303.9203

CREDIT REPORT

Report No. 566821

Provided For: INTITED PARTNERS GROUP 2000 CROW CANYON PLACE, SUITE 130 RAN RAMON, CA 94503 Acct #: 1515

Date Received 3/19/2007 Date Issued 3/19/2007 Requested By JAMES CONSOS Loan Type ΓΝΜΑ # PTO0566821 Charges

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Consumer Credit Report for MOHAMED HOSSNI ABOUELHASSAN

File Number:

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168880704 3 of 9

03/01/2007

Trans**Union.** 

CHEMICAL BANK #5260365070104170

800 BROOKS EDGE BY

WESTERVILLE, OH 43081

(800) 945-2006 200-867-9757

Loan Type: CREDIT CARD

Remarks:>CHAPTER 7 BANKRUPTCY«

Estimated date that this item will be removed: 04/2011

**Balance:** 

Balance:

Balance:

High Balance:

Date Updated: 08/2004 High Balance: \$594 Credit Limit:

\$600

Pay Status: UNRATED

Account Type: REVOLVING ACCOUNT Responsibility: INDIVIDUAL ACCOUNT

Date Open: 02/2003 Date Closed: 08/2004 Date Paid: 05/2004

**FIRST UNION RECOVERY** #1010104513686

PO BOX 3117 WINSTON SALEM, NC 27102

Phone number not available

Loan Type: DEPOSIT RELATED Remarks: >PROFIT AND LOSS WRITEOFF

Estimated date that this item will be removed: 04/2013

\$2,100 Date Updated: 01/2007

Past Due: >\$2,100¢ Pay Status:

>CHARGED OFF AS BAD DEBT«

Account Type: OPEN ACCOUNT Responsibility: JOINT ACCOUNT Date Open: 05/2006 Date Closed: 11/2006

GEMB/WALMART #6032203511007238

PO BOX 981400 EL PASO, TX 79998 (877) 294-7880

Loan Type: CHARGE ACCOUNT Remarks:>CHAPTER 7 BANKRUPTCY<

Estimated date that this item will be removed: 04/2011

Pay Status: UNRATED Date Updated:

04/2006 Account Type: REVOLVING ACCOUNT \$122 Responsibility: INDIVIDUAL ACCOUNT 10/2002

Credit Limit: \$300 Date Open: Date Closed: 08/2004

MITSUBISHI MOTOR CREDIT #10005064471229001

10805 HOLDER ST STE 300 CYPRESS, CA 90630-5147

(800) 770-5983 Loan Type: AUTOMOBILE

Date Updated: 08/2004 High Balance: \$21,446

Terms: 72 MONTHLY \$325 Pav Status: UNRATED

Account Type: INSTALLMENT ACCOUNT Responsibility: INDIVIDUAL ACCOUNT

Date Open: 06/2003 Date Closed: 08/2004

Remarks:>CHAPTER 7 BANKRUPTCY(

Estimated date that this item will be removed: 07/2011

NCO FINANCIAL #1832981

1001 BISHOP TOWER STE 480 HONOLULU, HI 96813 (800) 709-8613

Balance: \$62 Date Updated: 05/2004 Original Amount: \$60 Original Creditor: VERIZON HAWAII

>\$624

Past Due:

>COLLECTION ACCOUNTS Pay Status: Account Type: OPEN ACCOUNT Responsibility: INDIVIDUAL ACCOUNT

Remarks:>PLACED FOR COLLECTION< Date placed for collection: 04/2004

Estimated date that this item will be removed: 11/2010

**SALLIE MAE #988281330810001** 

PO BOX 9500

WILKES BARRE, PA 18773-9500

Loan Type: STUDENT LOAN

(88B) 272-5543

Balance: \$0 Date Updated: 05/2006 High Balance: \$8,500

Collateral:

**DEFERRED TO 12202006** 

Terms: 120 MONTHLY \$92

Remarks: CLOSED >Maximum delinquency of 90+ days occurred in 03/20064

Late 30 Payments: (11 months)

60 904

Last 11 months

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OK OK OK

Pay Status:

PAID OR PAYING AS AGREED Account Type: INSTALLMENT ACCOUNT Responsibility: INDIVIDUAL ACCOUNT

Date Open: 08/2002 Date Closed: 05/2006 Consumer Credit Report for MOHAMED HOSSNI ABOUELHASSAN

file Number:

168880704

Page: Date Issued:

2 of 9 03/01/2007

The following accounts contain information which some creditors may consider to be adverse. Adverse account information may generally be reported for 7 years from the date of the first delinquency, depending on your state of residence. The adverse information in these accounts has been printed in brackets; or is shaded for your convenience, to help you understand your report. They are not bracketed or shaded this way for creditors. (Note: The account # may be

\$386

01/2005

Original Creditor: AT T WIRELESS 3G ACCOUNTS

ACTIVE CREDIT SVCS, INC #857277

PO BOX 80370

PORTLAND, OR 97280-1370

(888) 357-2131

Loan Type: COLLECTION AGENCY/ATTORNEY Remarks: >PLACED FOR COLLECTION Date placed for collection: 10/2004

Estimated date that this item will be removed: 05/2010

**ALLIANCE COLLECTION SERV #D535339N1** 

**PO BOX 49** 

TUPELO, MS 38802-0049

(662) 841-9995

Loan Type: MEDICAL DEBT

Remarks: >PLACED FOR COLLECTION:

Date placed for collection: 05/2004

Loan Type: COLLECTION AGENCY/ATTORNEY

Remarks: >PLACED FOR COLLECTION:

Date placed for collection: 07/2005

Estimated date that this item will be removed: 04/2011

\$70 02/2006

Date Updated: Original Amount: \$70

Original Creditor: MED1 02 STACY HAYNES M D Past Due:

)\$70c

Pay Status: >COLLECTION ACCOUNTS

Account Type: OPEN ACCOUNT

Responsibility: INDIVIDUAL ACCOUNT

>COLLECTION ACCOUNTS

Account Type: OPEN ACCOUNT Responsibility: INDIVIDUAL ACCOUNT

Date Closed: 08/2004

Pay Status:

**AMERICAN COLLECTIONS ENT #10051990004** 

6094D FRANCONIA RD

ALEXANDRIA, VA 22310

(703) 719-9403

Balance: Date Updated: Original Amount: \$152

Balance:

Balance:

Date Updated:

Original Amount: \$385

\$152 06/2006

\$12,489

10/2006

\$21,446

>\$1,6260

Original Creditor: MED1 02 BIJAN YOUSSEFI MD FACS

>COLLECTION ACCOUNT: Account Type: OPEN ACCOUNT

Pay Status:

Pay Status:

Date Open:

Date Closed:

Past Due:

>\$152¢

Responsibility: INDIVIDUAL ACCOUNT

Account Type: INSTALLMENT ACCOUNT

06/2003

10/2006

Responsibility: INDIVIDUAL ACCOUNT

>90 DAYS PAST DUE

Car

**CENTERONE FINANCIAL SVS** #841000000767728

Estimated date that this item will be removed: 08/2011

PO BOX 4422

**BRIDGETON, MO 63044** 

(866) 636-8575

Loan Type: AUTOMOBILE

Remarks: NO FORWARDING ADDRESS

Maximum delinquency of 90+ days occurred in 09/20060 Estimated date that this Item will be removed: 04/2013

30 60 90+ Payments: 6 0 (17 months)

Last 17 months

120 90 OK 30

Balance:

Past Due:

Terms:

Date Updated:

High Balance:

OK OK 30 30 30 OK OK OK OK OK

sep aug jul jun may apr mar feb '06 dec nov oct sep aug

72 MONTHLY \$325

CHASE BANK USA NA #5435051501604307

800 BROOKSEDGE BLV WESTERVILLE, OH 43081

(800) 436-7939

Balance: Date Updated:

12/2006 High Balance: \$594 **Credit Limit:** \$600

Pay Status:

UNRATED

**Account Type: REVOLVING ACCOUNT** Responsibility: INDIVIDUAL ACCOUNT 02/2003

Date Open: Date Closed:

Date Paid:

12/2006 05/2004

Loan Type: CREDIT CARD

Remarks:>CHAPTER 7 BANKRUPTCYc

Estimated date that this item will be removed: 04/2011